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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,337	10/09/2001	Andrew J. Sewell	00-424	6197

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CATERPILLAR INC.
100 N.E. ADAMS STREET
PATENT DEPT.
PEORIA, IL 616296490

EXAMINER

KLEBE, GERALD B

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/973,337

Applicant(s)

SEWELL, ANDREW J.

Examiner

Gerald B. Klebe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 8 and 9 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Amendment

1. The amendment filed 8/29/2003 under 37 CFR 1.111 has been entered. Claim 10 having been entered by the amendment, claims 1-10 are pending in the application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 1-7 and 10 are rejected under 35 U.S.C. 102 (e) as being anticipated by Murakami et al. (US 6134816).

Murakami et al. discloses an arrangement for a work machine having an engine, comprising: (**re: claim 10**) a work machine body (refer Fig 1; item 19); an arm (28) connected to the machine body, the arm having an arm longitudinal axis (taken as the projection into the horizontal plane of the centerline axis of the arm); and an engine cooling apparatus (taken as a rectangular structure, not separately numbered, shown at the left side of the plan view of the engine, 25, as depicted in Fig 3) mounted to the machine body, the cooling apparatus having a longitudinal axis oriented substantially parallel to the arm longitudinal axis (refer Fig 3, where it is seen that the engine cooling apparatus (the rectangular structure, not separately numbered as seen in the plan view of Figure 3) has a top edge oriented parallel to the longitudinal axis of the

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arm 28 (obscured by item 27 in the view of shown in Fig 3)); and (**further re: claim 1**) wherein the arm is extensible (refer col 3, lines 31-34); and (**re: claim 2**) wherein the engine cooling apparatus comprises a radiator (considered inherent for the vehicle drive engine, 25); and wherein (**re: claims 3 and 5**) the arm comprises a telescoping arm (28; refer col 3, lines 31-33); and wherein; (**re: claims 4 and 5**) the arm is pivotable relative to the machine body (as shown in Fig 3, and refer col 3, lines 42-46); and wherein (**re: claim 6**) the arm longitudinal axis is offset to one side of the body longitudinal centerline (not separately shown but clearly inferred from Fig 3 as being an imaginary horizontal line extending forward and rearward transversely equidistant from the left and right tracks (18) of the work machine and the engine cooling apparatus longitudinal axis (taken as an imaginary line extending forward and rearward parallel to an edge of the radiator of the vehicle drive engine as identified in the discussion above) is offset to the other side of the body longitudinal axis (as identified in the discussion above); and wherein (**re: claim 7**) the machine body includes a rear portion (refer Fig 3) and the engine cooling apparatus is mounted to the rear portion of the machine body (as shown particularly in Fig 3).

4. Claims 1-5, 7 and 10 are rejected under 35 U.S.C. 102 (e) as being anticipated by Sorbel (US 6024164).

Sorbel discloses an arrangement for a work machine having an engine, comprising: (**re: claim 10**) a work machine body (refer Figs 1,2; item 10; where the body portion is not separately numbered); an arm (12) connected to the machine body, the arm having an arm longitudinal axis (taken as the projection into the horizontal plane of the centerline axis of the arm; refer to Fig 2); and an engine cooling apparatus (taken as the radiator, 26) mounted to the machine body, the cooling apparatus having a longitudinal axis oriented substantially parallel to the arm longitudinal axis (refer Fig 2, where it is seen that the engine cooling apparatus (the radiator, shown from the top as the rectangular element, 26) has a top edge oriented parallel to the

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longitudinal axis of the arm 12 shown; and (**further re: claim 1**) wherein the arm is extensible (refer col 3, lines 30-34); and (**re: claim 2**) wherein the engine cooling apparatus comprises a radiator (26); and wherein (**re: claims 3 and 5**) the arm comprises a telescoping arm (14); and wherein (**re: claims 4 and 5**) the arm is pivotable relative to the machine body (refer col 3, lines 30-34); and wherein (**re: claim 7**) the machine body includes a rear portion and the engine cooling apparatus is mounted to the rear portion of the machine body (as shown particularly in Fig 2).

5. Claims 1-5, 7 and 10 are rejected under 35 U.S.C. 102 (b) as being anticipated by Crocker (US 5924478).

Crocker discloses (Refer to Fig 3 and associated text) an arrangement for a work machine having an engine, comprising: (**re: claim 10**) a work machine body (refer Fig 3; item 20; where the body portion is not separately numbered); an arm (Refer Fig 3; where the arm, not separately numbered, is shown at the left) connected to the machine body, the arm having an arm longitudinal axis (inherent; taken as the projection into the horizontal plane of the centerline axis of the arm); and an engine cooling apparatus (taken as the radiator 14) mounted to the machine body, the cooling apparatus having a longitudinal axis oriented substantially parallel to the arm longitudinal axis (refer Fig 3, where it is seen that the engine cooling apparatus (taken as the radiator, 14, shown in solid line as the rectangle with curved corners) has a top edge that is oriented parallel to the longitudinal axis of the arm; and (**further re: claim 1**) wherein the arm is extensible (refer col 3, lines 30-34); and (**re: claim 2**) wherein the engine cooling apparatus comprises a radiator (14); and wherein (**re: claims 3 and 5**) the arm comprises a telescoping arm (shown in Fig 3 as representing the piston-cylinder combination); and wherein (**re: claims 4 and 5**) the arm is pivotable relative to the machine body; and wherein (**re: claim 7**) the machine body includes a rear portion and the engine cooling apparatus is mounted to the rear portion of the machine body (as shown in Fig 3).

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6. Claims 1-2, 4, 7 and 10 are rejected under 35 U.S.C. 102 (e) as being anticipated by Anderson et al. (US 6205665 B1).

Anderson et al. discloses an arrangement for a work machine (Fig 1, item 10) having an engine (Fig 9, item 560) comprising: **(re: claim 10)** a work machine body (refer Fig 9; item 26) an arm (596; refer Fig 10; seen to comprise two side elements left and right) connected to the machine body (refer Fig 14) connected to the machine body, the arm having an arm longitudinal axis (inherent; taken as the projection into the horizontal plane of the centerline axis running between the two side structures constituting the arm); and an engine cooling apparatus (taken as the radiator 614, seen in Fig 10 as a rectangular-parallelepiped shaped structure) mounted to the machine body, the cooling apparatus having a longitudinal axis oriented substantially parallel to the arm longitudinal axis (refer Fig 11, where it is seen that the engine cooling apparatus (taken as the radiator, 614)) has a longitudinally oriented edge that is substantially parallel to the longitudinal axis of the arm (596); and **(further re: claim 1)** wherein the arm is extensible (inherent for a loader machine; and refer col 3, lines 62-64); and **(re: claim 2)** wherein the engine cooling apparatus comprises a radiator (614); and wherein **(re: claims 3 and 5)** the arm comprises a telescoping arm (shown in Fig 10 as represented by the two piston-cylinder combinations, not separately numbered); and wherein **(re: claims 4 and 5)** the arm is pivotable relative to the machine body (inherent for loader machines of the type having arms as shown in Figs 10 and 11); and wherein **(re: claim 7)** the machine body includes a rear portion and the engine cooling apparatus is mounted to the rear portion of the machine body (as shown in Figs 11, 14 and 16).

Allowable Subject Matter

7. Claims 8-9 are allowed.

Reasons for Allowance

8. The following is an examiner's statement of the reasons for allowance:

The limitations recited in the independent claim 8 of a work machine having a body having a longitudinal centerline and a work arm pivotally connected to the rear portion of the body, the arm having a longitudinal axis located on one side of the body longitudinal axis and an engine cooling apparatus, taken as an engine cooling radiator in the form of a rectangular parallelepiped having a longitudinal axis substantially parallel to the arm longitudinal axis and located on the other side of the body longitudinal centerline from the arm longitudinal axis, clearly defines over the prior art of record and any combination that may reasonably be developed therefrom.

Response to Argument

9. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Prior Art made of Record

10. The prior art made of record and not relied upon is considered pertinent to the Applicant's disclosure. The prior art of Akira et al teaches a work machine cooling apparatus wherein the radiator longitudinal axis is parallel to the longitudinal axis of the work arm; Nakamura et al. teaches a work machine having a telescoping work arm pivotally attached on the centerline of the body of the machine; Ashton grain-harvesting machine wherein the radiator

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longitudinal axis parallel the work arm longitudinal axis; Vogelaar et al. teach a harvester machine wherein the radiator longitudinal axis parallels the longitudinal axis of the work arm; Clancy et al teaches a work machine wherein the longitudinal axis of the radiator parallels the longitudinal centerline of a telescoping, extensible work arm; Contoli teaches a work machine having a radiator longitudinal centerline parallel to the longitudinal centerline of the work arm and wherein both the radiator and the work arm are on the same side of the longitudinal centerline of the machine body; Yamagishi teaches a cooling radiator and a work arm of a work machine wherein a longitudinal centerline of the radiator parallels the centerline of the work arm; Kajimoto teaches a work machine having the radiator and the work arm both on the same side of the longitudinal centerline of the machine body; Oda et al. teaches a work machine having an extensible work arm pivotally connected to the body of the machine and having a longitudinal centerline offset from the centerline of the body and a radiator longitudinal centerline parallel to the arm longitudinal centerline; Chase et al teaches a work machine having an engine mounted transversely to the longitudinal centerline of the vehicle and having a work arm whose longitudinal centerline is offset from the longitudinal centerline of the vehicle; Nasu teaches a work machine with a work arm having its longitudinal centerline offset from the longitudinal centerline of the body of the vehicle and an engine radiator having a longitudinal centerline parallel to the longitudinal centerline of the work arm of the vehicle. These references also show various other structures having features in common with some of the features disclosed in the instant application.

Conclusion

11. Any inquiry concerning this or earlier communication(s) from the examiner should be directed to Gerald B. Klebe at 703-305-0578, fax 703-872-9306; Mon.-Fri., 8:00 AM - 4:30 PM ET, or to Supervisory Patent Examiner Brian L. Johnson, Art Unit 3618, at 703-308-0885.

Note that the examiner's fax number has changed.

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Official correspondence should be sent to the following TC 3600 Official Rightfax numbers as follows: Regular correspondence: 703-872-9326; After Finals: 703-872-9327; Customer Service: 703-872-9325.

gbklebe

gbklebe / AU 3618 / 29 October 2003

Brian J. Johnson
BRIAN J. JOHNSON
SUPERVISOR / EXAMINER 10/30/03
TECHNOLOGY CENTER 3600